

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

Irvine Ranch Water District)	Complaint No. 01-46
3512 Michelson Drive)	for
Irvine, California 92612-1799)	Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Irvine Ranch Water District (IRWD) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose administrative civil liability, pursuant to California Water Code Section 13385.
2. A hearing concerning this complaint will be held before the Board within 60 days of the date of issuance of this complaint, unless IRWD waives its right to a hearing. Waiver procedures are specified in page 5 of this complaint. If the hearing on this matter is not waived, the hearing will be held during the Board's regular meeting on October 26, 2001 at the City Council Chambers of Corona, located in the city of Corona, California. The meeting will begin at 9:00 a.m. IRWD or its representative will have the opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of civil liability by the Board. An agenda and announcement for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. If the October 26, 2001 hearing is held on this matter, the Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. This complaint is based on the following facts:
 - A. On December 6, 2000, IRWD staff discovered a leak in their 36-inch main reclaimed water distribution line. Consequently, IRWD diverted flows from their secondary clarifier units to temporary emergency storage, Pond No. 2.
 - B. On December 7, 2000, at approximately 1715 hours, IRWD staff observed a boil of water in San Diego Creek, approximately 15 feet from the shoreline. Upon investigating the source of the boil, IRWD staff found that it was the result of wastewater from the adjacent storage pond being discharged through an underground pipeline.

- C. Upon lowering the water level of Pond No. 2, IRWD staff found a 12-inch tar covered steel irrigation line. IRWD cut and crimped the irrigation line to stop the flow to San Diego Creek. Flow to San Diego Creek ceased at approximately 0315 on December 8, 2000.
 - D. IRWD reported that approximately 270,000 gallons of undisinfected secondary treated wastewater were discharged to San Diego Creek.
 - E. As a result of the discharge, Orange County Health Care Agency closed approximately 4,220 feet of public beach within Newport Bay to swimming, from December 8, 2000 to December 10, 2000. The closure extended from Upper Newport Bay southward to North Star Beach.
- 5. The discharge of wastewater, and the production and use of recycled water by IRWD are currently regulated under the Board's Waste Discharge and Producer/User Reclamation Requirements, Order No. 94-22, NPDES No. CA 8000326, adopted by the Board on October 14, 1994. Order No. 94-22 was amended by Order No. 96-3 on July 1, 1996, and by Order No. 97-3 on January 24, 1997.
- 6. Discharge Specification No. 11 of Order No. 94-22, as amended, states:
 - "The discharge/use of reclaimed water to/within any surface water body is prohibited except as follows:"
 - A. Emergency overflows may be discharged from Sand Canyon Reservoir which result from chronic, catastrophic or cumulative storm events.
 - B. Reclaimed water may be discharged from the Wetlands Water Supply Project (WWSP) in accordance with Order No. 96-2
 - C. Reclaimed water may be used for irrigation within the San Joaquin Marsh, provided that there is no direct discharge of reclaimed water from the Marsh to San Diego Creek. Tailwater from the San Joaquin Marsh that is directed into the Wetlands Water Supply Project ponds may be discharged to San Diego Creek in accordance with Order No. 96-2, as part of the 5 million gallons per day permitted discharge from the WWSP.
 - D. Reclaimed water may be used for irrigation of riparian areas of the WWSP and as a supplemental water supply (if necessary) to support the development of grass or grain crops in the WWSP ponds during the dry season, provided that all reasonable steps are taken to minimize reclaimed water runoff and commingling of the reclaimed water with other waters.
- 7. The discharge of wastewater to San Diego Creek on December 7 and 8, 2000, was in violation of Discharge Specification No. 11 of Order No. 94-22, as amended.

8. California Water Code (CWC) Section 13385 Section(a) states, in part:

“(a) Any person who violates any of the following shall be liable civilly in accordance with this section:

(2) Any waste discharge requirements or dredge and fill material permit.”

Therefore, Irvine Ranch Water District is liable civilly for violation of Order No. 94-22.

9. The discharge occurred from sewage collection facilities owned and operated by IRWD. IRWD is strictly liable for the unauthorized discharge of waste from these facilities. Therefore, IRWD is liable for the violation cited above.
10. Pursuant to CWC Section 13385(c), the Board can administratively assess civil liability in an amount not to exceed the sum of the following:
 - A. Ten thousand dollars (\$10,000) for each day in which the violation occurs; and,
 - B. Where there is a discharge, any portion which is not susceptible to clean up or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
11. In accordance with CWC Section 13385(c), the maximum liability for the violation cited above is \$2,700,000. This liability is calculated in the following manner:
 - A. \$20,000, for 2 days of discharge in violation of Order No. 94-22; and,
 - B. \$2,690,000, for \$10 per gallon for each gallon over 1,000 gallons discharged in violation of Order No. 94-22 not susceptible to clean up, calculated as follows:

Discovery of discharge: 12/7/00, Sunday at 1715

End of discharge: 12/8/00, Monday at 0315

Total time of discharge: 10 hours, over two days

Discharge Rate: 450 gallons
min.

Estimated Quantity Discharged:

$$\frac{450 \text{ gallons}}{\text{min.}} \cdot \frac{60 \text{ min}}{\text{hr.}} \cdot 10 \text{ hrs.} = 270,000 \text{ gallons}$$

$$\frac{\$10}{\text{gallon}} \cdot (270,000 \text{ gallons} - 1,000 \text{ gallons}) = \$2,690,000$$

The sum of \$20,000 (from 11.A., above) and \$2,690,000 (from 11.B., above) is \$2,710,000.

12. CWC Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability, including recovery of economic benefits derived from the acts that constitute the violation. The State Water Resources Control Board's Enforcement Policy calls for recovery of staff costs in liability assessments. After consideration of these factors, requirements and policy directives, the Executive Officer proposes civil liability be imposed on IRWD in the amount of \$74,690 for the violation cited above.
13. IRWD may waive its right to a hearing in this matter. If IRWD waives its right to a hearing, IRWD shall sign the waiver, which is page 5 of this complaint, and return it, together with a check payable to the State Water Resources Control Board in the amount of \$74,690. Send the check and signed waiver to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

If you have any questions concerning this complaint, contact the undersigned at (909) 782-3284, Gary D. Stewart, Surveillance and Enforcement Section Chief, at (909) 782-4379, Jessie H. Powell III, Surveillance and Enforcement Section Staff Engineer, at (909) 320-6358, or Ted Cobb, the Board's Staff Counsel, at (916) 341-5171.

Date 9-10-01



Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board
Santa Ana Region

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Waiver of Hearing

Irvine Ranch Water District (IRWD) agrees to waive its right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-46. IRWD has enclosed a check payable to the State Water Resources Control Board for the amount of the proposed liability in Paragraph 12 of Complaint No. 01-46. IRWD understands that it is giving up its right to be heard and to argue against the allegations made in Complaint No. 01-46, and against the imposition of, and amount of, civil liability.

Date

for Irvine Ranch Water District